

two defendants charged with cocaine distribution who were tried with codefendants who were also charged with the murder of a federal agent). Although Kelley's motion makes the assertion that "a jury charge would be insufficient to prevent a jury from considering this 404(b) evidence . . . in an impermissible fashion, and to prevent undue prejudice under a Rule 403 analysis,"¹ it does not explain why a jury instruction would be ineffective. The court finds that a limiting instruction would be appropriate concerning the 404(b) evidence, and there is no reason to infer that the jury will not be able to follow that instruction.

Accordingly, the second motion to sever is **DENIED**.

DONE and ORDERED this 28th day of December, 2009.

/s/ Callie V. S. Granade
CHIEF UNITED STATES DISTRICT JUDGE

¹ See defendant's motion (Doc. 415) at pp. 2-3.